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Abstract

This paper's aim is to pose problems appropriate for the first paper of this issue, to provide something of an overview of the prospects of war crimes. A number of points will look at issues to be examined in detail in later papers.

Why Have Laws of War?

Why do we bother to have rules of war? Why should there be laws of war? Why should all we try for law in war?

The answer to the laws of war seek to alleviate the worst effects of international conflict: some killings, wounding and destruction are inevitable, but some others, factual conflict may be hard to avoid, but it can be made less bad. Some actions are unnecessary and cruel, and should be avoided. Some actions are not part of the conflict, the wounded and prisoners of war, civilians and property which is not related to present internal discipline is military forces. And they make great war crimes, the Nuremberg Tribunal, the Tokyo Tribunal, the Yugoslavia Tribunal, the Rwanda tribunal, the Sierra Leone, the Balkans and Cyprus, the Israelis and Palestinians, the Kurds and Iraqis, and so on. It is difficult to collect fights in a war it requires a fine judgment, there, even at the expense of greater success in the military campaign. Those who have taken prisoners of war, and those who have taken civilians, have had to let them go, or have had to feed them, provide medicine and let the enemy control their fights. Such fine judgments are not impossible. It is not justified that 'moral equality of soldiers' on both sides and the many lives on war and welfare, and they apply the same concerns. Given that we do have wars, even justified, should endorse the laws of war.

The Scope of War Crimes

In this paper, which is concerned with the prospectus of punishment, we shall concentrate on war crimes. The International Criminal Court (ICC) also has jurisdiction over genocide and crimes against humanity.

The war crimes the ICC has jurisdiction over are listed in Article 8 of the Rome Statute (Cassese 2008: 237–239). Some of the crimes are: 'Intentionally directing attacks against the civilian population as such or against individual civilians who are not taking part in hostilities', 'Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives', 'Intentionally launching an attack in the knowledge that such attack will cause loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated', 'Killing or wounding a combatant who, having laid down his arms or having no longer means of defence, has surrendered at discretion', 'Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives', 'Intentionally using starvation as a method of warfare by depriving civilians of objects indispensable to their survival, including willfully impeding relief supplies as provided for, under the Geneva Conventions', 'Conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities', 'Ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand', 'Pillaging a town or place, even when taken by assault', 'Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions', 'Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided that they are not military objectives', 'Intentionally using starvation as a method of warfare by depriving civilians of objects indispensable to their survival, including willfully impeding relief supplies as provided for, under the Geneva Conventions', 'Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the law of armed conflict', 'Intentionally using starvation as a method of warfare by depriving civilians of objects indispensable to their survival, including willfully impeding relief supplies as provided for, under the Geneva Conventions', 'Conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities', 'Ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand', 'Pillaging a town or place, even when taken by assault', 'Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions', 'Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided that they are not military objectives

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